

House Bill 1086

By: Representatives Burkhalter of the 50<sup>th</sup>, Stephens of the 164<sup>th</sup>, Ashe of the 56<sup>th</sup>, Graves of the 12<sup>th</sup>, Benfield of the 85<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 12 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Council for the Arts, so as to provide for legislative intent; to create the Georgia Arts Trust; to provide for the membership, appointment, terms, filling of vacancies, duties, and responsibilities of the board of trustees of the Georgia Arts Trust; to provide for the creation, appointment, terms, filling of vacancies, duties, and responsibilities of the Georgia Arts Trust Advisory Committee; to provide for certain reports and audits; to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, and computation of income taxes, so as to provide a tax credit for certain donations to the Georgia Arts Trust and certain qualifying arts organizations; to provide for definitions; to provide for the calculation of such credit; to provide for limitations on such credit; to provide for related matters; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 12 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Council for the Arts, is amended by designating the existing text as Part 1 and inserting a new Part 2 to read as follows:

"Part 2

50-12-30.

The General Assembly finds that:

(1) Tourism is Georgia's second largest industry and cultural heritage tourism is the fastest growing industry segment;

- 1 (2) The arts surpass professional sports in attendance and are ranked as one of the top ten  
2 reasons for corporate relocations;
- 3 (3) The arts preserve history and heritage for Georgians;
- 4 (4) The arts enhance education success for our children through the teaching of complex  
5 and abstract ideas; the nurturing of the development of cognitive, social, and personal  
6 competencies; and the reaching of otherwise unreachable students;
- 7 (5) Companies desire employees who can meet the challenges of a global economy and  
8 can apply creative thought to problem solving;
- 9 (6) The arts build communities and increase the quality of life for Georgians;
- 10 (7) Increasing the availability of the arts and tourism is a direct economic benefit for the  
11 economy of Georgia and will provide jobs and opportunities for our citizens; and
- 12 (8) It is in the best interests of this state and its citizens to support the arts and tourism.

13 50-12-31.

14 (a) In order to foster a public-private partnership for the support of the arts and tourism in  
15 this state, there is created the Georgia Arts Trust. Such trust shall be for the purpose of  
16 receiving and distributing funds for the support of the arts and tourism in this state. The  
17 Georgia Arts Trust shall not be an entity or agency of government, but shall be a private  
18 trust operating under and in accordance with the laws of this state. It is the intent of the  
19 General Assembly that such trust take all necessary steps to become a Section 501(c)(3)  
20 entity under the federal Internal Revenue Code.

21 (b)(1) The Georgia Arts Trust shall be governed by a board of trustees. Such board shall  
22 be comprised of 17 members to be selected in accordance with this subsection.

23 (2) One member shall be selected from each of the state's 13 congressional districts. The  
24 Governor shall appoint five members, the Speaker of the House of Representatives shall  
25 appoint four members, and the Senate Committee on Assignments shall appoint four  
26 members. The Governor shall appoint the initial members from congressional districts  
27 1, 2, 3, 4, and 5; the Speaker of the House of Representatives shall appoint the initial  
28 members from congressional districts 6, 7, 8, and 9; and the Senate Committee on  
29 Assignments shall appoint the initial members from congressional districts 10, 11, 12, and  
30 13.

31 (3) For the first subsequent appointment after the initial terms of office for members  
32 appointed from congressional districts 2, 4, 6, 8, 10, and 12, the Governor shall appoint  
33 successors for congressional districts 6 and 8, the Speaker of the House of  
34 Representatives shall appoint successors for congressional districts 10 and 12, and the  
35 Senate Committee on Assignments shall appoint successors for congressional districts 2

1 and 4. For the second subsequent appointment, the Governor shall appoint successors for  
2 congressional districts 10 and 12, the Speaker of the House of Representatives shall  
3 appoint successors for congressional districts 2 and 4, and the Senate Committee on  
4 Assignments shall appoint successors for congressional districts 6 and 8. For the third  
5 subsequent appointment, the Governor shall appoint successors for congressional districts  
6 2 and 4, the Speaker of the House of Representatives shall appoint successors for  
7 congressional districts 6 and 8, and the Senate Committee on Assignments shall appoint  
8 successors for congressional districts 10 and 12. All subsequent appointments shall  
9 continue on, with the entire cycle starting over again as specified in this paragraph.

10 (4) For the first subsequent appointment after the initial terms of office for members  
11 appointed from congressional districts 1, 3, 5, 7, 9, 11, and 13, the Governor shall appoint  
12 successors for congressional districts 5, 7, and 9, the Speaker of the House of  
13 Representatives shall appoint successors for congressional districts 11 and 13, and the  
14 Senate Committee on Assignments shall appoint successors for congressional districts 1  
15 and 3. For the second subsequent appointment, the Governor shall appoint successors for  
16 congressional districts 9, 11, and 13, the Speaker of the House of Representatives shall  
17 appoint successors for congressional districts 1 and 3, and the Senate Committee on  
18 Assignments shall appoint successors for congressional districts 5 and 7. For the third  
19 subsequent appointment, the Governor shall appoint successors for congressional districts  
20 1, 3, and 13, the Speaker of the House of Representatives shall appoint successors for  
21 congressional districts 5 and 7, and the Senate Committee on Assignments shall appoint  
22 successors for congressional districts 9 and 11. All subsequent appointments shall  
23 continue on, with the entire cycle starting over again as specified in this paragraph.

24 (5) The Governor shall also appoint one serving board member from each of the  
25 following state agencies or departments: the State Board of Education, the Department  
26 of Economic Development, Georgia Public Broadcasting, and the Georgia Council for  
27 the Arts, each of whom shall have the approval of the board of the department or agency  
28 being represented. Such persons shall not be elected officers of the state or officials of  
29 any of such agencies.

30 (c) The members of the board of trustees shall serve terms of four years and until their  
31 successors are appointed and qualified; provided, however, that the initial terms of the  
32 members appointed from the even-numbered congressional districts and the members  
33 representing the Department of Economic Development and Georgia Public Broadcasting  
34 shall be for two years and until their successors are appointed and qualified. Thereafter,  
35 such members shall serve for four-year terms and until their successors are appointed and  
36 qualified. Vacancies shall be filled by the appointing authority that appointed the departing

1 member for the departing member's unexpired term of office. The members of the board  
2 of trustees shall serve without compensation but may be reimbursed for actual expenses  
3 incurred while on the business of the trust.

4 (d) The board of trustees shall elect from among their number annually a chairperson and  
5 a vice chairperson. The board of trustees may also elect such other officers as the board  
6 deems appropriate. The board shall meet at the call of the chairperson or the request of any  
7 four members.

8 (e) The executive director of the Georgia Council for the Arts shall also serve as the  
9 executive director of the trust. The trust shall reimburse the Georgia Council for the Arts  
10 for the time spent by the executive director on matters concerning the trust.

11 (f) The board of trustees shall appoint an advisory committee to assist the board members  
12 in their duties. Such advisory committee shall consist of 30 members and shall be chaired  
13 by the executive director of the trust. The advisory committee shall consist of two  
14 representatives from each of the state's service delivery regions; a representative of a small  
15 arts organization with an annual budget of less than \$500,000.00; a representative of a large  
16 arts organization with an annual budget in excess of \$1 million; a representative of the  
17 Georgia Humanities Council; a representative of the film, video, and music division of the  
18 Department of Economic Development; a representative of the tourism division of the  
19 Department of Economic Development; and the executive director of the trust. In making  
20 its appointments, the board shall select members of the boards of arts and tourism  
21 organizations, persons who have shown a commitment to the arts in their communities, and  
22 persons who understand the needs of business and the arts and tourism industries. Such  
23 members shall serve for four-year terms and until their successors are selected and  
24 qualified; provided, however, that the board of trustees shall designate 15 of the initial  
25 appointees to serve terms of two years and until their successors are selected and qualified.  
26 Such 15 members shall thereafter serve four-year terms and until their successors are  
27 selected and qualified. The members of the advisory committee shall serve without  
28 compensation but may be reimbursed for expenses actually incurred while on the business  
29 of the advisory committee.

30 50-12-32.

31 The Georgia Arts Trust shall be for the following purposes:

32 (1) To support the arts and tourism industries of this state;

33 (2) To receive, invest, and administer funds received from the state, the federal  
34 government, private donations, grants, and other sources to fulfill the purposes for which  
35 the trust is created;

- (3) To attract contributions and grants;
- (4) To preserve the long-term financial health of Georgia's arts and tourism industries;
- (5) To conserve and grow the state's art resources;
- (6) To maximize access to the arts for Georgia citizens;
- (7) To ensure that the benefits of arts education are competitively available to all schools;
- (8) To inventory, conserve, and grow the state's public art;
- (9) To develop and implement ongoing growth and conservation programs for the state's arts and tourism industries;
- (10) To market and sell Georgia's arts, crafts, and traditional arts;
- (11) To focus grants to tourism sites and on arts, crafts, and traditional arts for increased cultural heritage tourism;
- (12) To utilize funds of the trust for matching dollars for federal and foundation grants to fulfill the purposes of the trust;
- (13) To develop additional resources for Georgia's arts assets; and
- (14) To engage in other activities designed to grow and support Georgia's arts and tourism industries.

50-12-33.

The board of trustees shall have the following duties and responsibilities:

- (1) To operate and manage the Georgia Arts Trust including the investment and reinvestment of the trust's funds, the management of assets of the trust, and the distribution of such funds and assets to fulfill the purpose of the trust;
- (2) To enter into contracts with public and private entities for services needed by the trust and to fulfill the purposes of the trust;
- (3) To employ staff and consultants as deemed necessary to fulfill the purposes of the trust and to manage, invest, and administer funds and assets of the trust;
- (4) To receive, retain, and invest donations, state and federal funding, grants, and other funds and assets;
- (5) To ensure that an annual independent audit is conducted of all funds and assets of the trust;
- (6) To apply for and administer grants from public and private entities to fulfill the purposes of the trust, to assist Georgia arts and tourism organizations in obtaining and administering grants for these purposes, and to partner with other organizations in order to obtain such grants;
- (7) To receive, invest, and administer funds as endowments for Georgia arts and tourism organizations;

- 1 (8) To institute and administer grant programs for Georgia arts and tourism organizations  
2 and programs to fulfill the purposes of the trust;
- 3 (9) To promote, market, and assist in the export of Georgia's arts and crafts;
- 4 (10) To promote, fund, conduct, and assist in the development, provision, and expansion  
5 of arts education programs in Georgia;
- 6 (11) To preserve, maintain, and make accessible the public art of this state; and
- 7 (12) To perform such other tasks as may be appropriate to fulfill its purposes that are not  
8 inconsistent with law.

9 50-12-34.

10 (a) The funds and assets of the trust shall be independently audited annually, and the  
11 results of such audit shall be open to inspection at reasonable times by any person. A copy  
12 of the audit report shall be sent to the state auditor and the state accounting officer.

13 (b) The trust shall provide the Governor and the members of the General Assembly with  
14 a full report of its activities in December of each year with recommendations, if any, for  
15 legislation to assist the trust in achieving its purposes."

## 16 SECTION 2.

17 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
18 imposition, rate, and computation of income taxes, is amended by inserting a new Code  
19 Section 48-7-29.10 to read as follows:

20 "48-7-29.10.

21 (a) As used in this Code section, the term:

22 (1) 'Georgia arts organization' means a private, not for profit organization in this state,  
23 other than the Georgia Arts Trust, that has as its purpose and engages in the promotion,  
24 development, administration, production, maintenance, or provision of the arts in this  
25 state.

26 (2) 'Georgia Arts Trust' means the Georgia Arts Trust created by Code Section 50-12-31.

27 (b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20  
28 or 48-7-21, as applicable, for donations to the Georgia Arts Trust and one or more Georgia  
29 arts organizations. No taxpayer shall be entitled to such credit with respect to the same  
30 donations claimed by another taxpayer.

31 (c) In order to receive the credit provided in this Code section, the taxpayer must during  
32 the tax year in which such credit is sought:

33 (1) Make a contribution to one or more Georgia arts organizations; and

1 (2) Make a contribution to the Georgia Arts Trust that exceeds the aggregate total of the  
2 contributions to Georgia arts organizations.

3 (d) The credit provided in this Code section shall be equal to one-half of the aggregate  
4 total of the taxpayer's contributions to Georgia arts organizations during the tax year for  
5 which the credit is sought. In the event that the taxpayer's aggregate contributions to  
6 Georgia arts organizations exceed the amount of the taxpayer's contribution to the Georgia  
7 Arts Trust in a tax year, for purposes of computing the credit under this Code section, the  
8 amount of the taxpayer's aggregate contributions to Georgia arts organizations for the tax  
9 year shall be reduced to the amount of the taxpayer's contribution to the Georgia Arts Trust  
10 in such tax year.

11 (e) In no event shall the amount of the tax credit exceed \$5,000.00 for individual taxpayers  
12 or \$10,000.00 for corporate taxpayers, or the taxpayer's income tax liability, whichever is  
13 less. Any unused tax credit shall not be allowed to be carried forward to apply to the  
14 taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer  
15 against prior years' tax liability.

16 (f) The commissioner shall promulgate any rules and regulations necessary to implement  
17 and administer this Code section."

### 18 SECTION 3.

19 All laws and parts of laws in conflict with this Act are repealed.